

EXHIBIT 2

Michael T. Mulrey

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Boston, MA

January 5, 2006

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THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL MDL DOCKET NO.
INDUSTRY AVERAGE WHOLESALE 01CV12257-PBS
PRICE LITIGATION

DEPOSITION OF
THIS DOCUMENT RELATES TO: MICHAEL T. MULREY
ALL ACTIONS JANUARY 5, 2006

C O N F I D E N T I A L

DEPOSITION of MICHAEL T. MULREY, a witness called on
behalf of the Defendant Johnson & Johnson pursuant to
the Federal Rules of Civil Procedure, before Judith
McGovern Williams, Certified Shorthand Reporter,
Registered Professional Reporter, Certified Realtime
Reporter, Certified LiveNote Reporter, and Notary
Public in and for the Commonwealth of Massachusetts,
at the offices of Robins, Kaplan, Miller & Ciresi,
L.L.P., 800 Boylston Street, Boston, Massachusetts
02199, on Thursday, January 5, 2006, commencing at
1:38 p.m.

Henderson Legal Services
(202) 220-4158

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1 administered to its members in 1991 through today?

2 A. I would say yes.

3 Q. Okay. So the shift from usual and
4 customary to the fee schedule was in part due to
5 the administrative simplicity with using fee
6 schedules?

7 A. Yes.

8 Q. Now focusing on these four different
9 schedules that you have identified, how do they
10 differ, if at all, with respect to the amounts
11 that are afforded to physicians for the
12 administration of drugs to Blue Cross/Blue Shield
13 of Massachusetts members?

14 A. The drug fees on all four schedules
15 right now are all equal, the same.

16 Q. Okay. Currently today what is the
17 amount in the fee schedules that is afforded to
18 physicians for the administration of drugs to Blue
19 Cross/Blue Shield of Massachusetts members?

20 A. You are asking what the AWP was set at?

21 Q. Is there a constant methodology utilized
22 for all drugs in each of the fee schedules?

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1 A. Right.

2 Q. And is that methodology for the fee-for-
3 service reimbursement based upon a percentage of
4 AWP?

5 A. Yes.

6 Q. And what is that percentage?

7 A. 95 percent.

8 Q. How long has Blue Cross/Blue Shield of
9 Massachusetts utilized a reimbursement amount of
10 95 percent of AWP to reimburse all drugs on all
11 its fee schedules?

12 A. Since '98 when Medicare made their
13 change.

14 Q. Prior to 1998, what methodology did Blue
15 Cross/Blue Shield of Massachusetts use to
16 reimburse -- to determine the reimbursement
17 amounts for drugs on its fee schedules?

18 A. I don't -- I'm -- let me back this up.
19 What methodology did we use?

20 Q. When I say methodology, --

21 A. Yes.

22 Q. -- you have referred to 95 percent of

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1 AWP --

2 A. Yes.

3 Q. -- as the basis for the reimbursement
4 amounts in the fee schedules for drugs, and I'm
5 referring to that as methodology.

6 A. Okay.

7 Q. So 95 percent of AWP methodology.

8 A. Okay.

9 Q. So let me ask the question.

10 Prior -- from 1995 through 1998, what
11 was the basis by which Blue Cross/Blue Shield of
12 Massachusetts calculated the amounts in its fee
13 schedules for physician-administered drugs?

14 A. 100 percent of AWP.

15 Q. Starting in 1995, how did Blue
16 Cross/Blue Shield of Massachusetts determine the
17 AWP it used to calculate the amounts in its fee
18 schedules?

19 A. We basically just used Medicare's AWP.

20 Q. When you say "Medicare's AWP," what are
21 you referring to?

22 A. Medicare's AWP fee schedule for their J

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1 codes.

2 Q. Okay. So is it correct that Blue
3 Cross/Blue Shield of Massachusetts did not
4 calculate its own dollar amounts in the fee
5 schedule but simply adopted the amounts that were
6 specified in the Medicare fee schedules?

7 A. Yes.

8 Q. Okay. There came a point in time when
9 that changed; correct?

10 A. What changed?

11 MR. HAAS: Well, let me withdraw that
12 question.

13 Q. Does Blue Cross/Blue Shield of
14 Massachusetts still use Medicare's amounts, dollar
15 amounts, in its fee schedules?

16 A. No.

17 Q. What does Blue Cross/Blue Shield of
18 Massachusetts currently do to determine the 95
19 percent of AWP used to calculate -- to determine
20 the amounts in its fee schedule for the
21 reimbursement of physician-administered drugs?

22 A. We are using a vendor to provide us

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1 pricing.

2 Q. Which vendor?

3 A. R.J. Health.

4 Q. How to your knowledge does R.J. Health
5 derive its AWP's from?

6 A. I don't know.

7 Q. Does R.J. Health calculate a dollar
8 amount which is then provided to Blue Cross/Blue
9 Shield of Massachusetts?

10 A. Yes.

11 Q. So Blue Cross/Blue Shield of
12 Massachusetts does not duly calculate 95 percent
13 of AWP --

14 A. No.

15 Q. -- for each drug?

16 A. No.

17 Q. Is there someone at Blue Cross/Blue
18 Shield of Massachusetts who is familiar with the
19 methodology that R.J. Health actually uses to come
20 up with that number that Blue Cross/Blue Shield of
21 Massachusetts uses in its fee schedule?

22 A. I'm not sure.

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1 Q. When did Blue Cross/Blue Shield of
2 Massachusetts first begin to use R.J. Health as a
3 vendor to determine reimbursement amounts for
4 physician-administered drugs?

5 A. 2005.

6 Q. And Blue Cross/Blue Shield of
7 Massachusetts started using R.J. Health because
8 Medicare no longer reimbursed for physician-
9 administered drugs on an AWP basis; correct?

10 A. Yes.

11 Q. In the 2004 time frame before Medicare
12 switched its reimbursement methodology, did Blue
13 Cross/Blue Shield of Massachusetts give any
14 consideration to revising its reimbursement
15 methodology for physician-administered drugs?

16 A. Yes.

17 Q. What involvement, if any, did you have
18 in that process?

19 A. I completed an analysis.

20 Q. What analysis was that?

21 A. An analysis of ASP pricing that Medicare
22 was proposing against our utilization.

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1 determined that following Medicare to the ASP
2 methodology, that would result in a decrease in
3 overall reimbursement afforded to physicians; is
4 that correct?

5 A. Yes.

6 Q. And as a consequence of your analysis,
7 is it correct that Blue Cross/Blue Shield of
8 Massachusetts elected not to shift to the ASP
9 reimbursement methodology?

10 A. At this time, yes.

11 Q. Okay. And the decision was made not to
12 shift because Blue Cross/Blue Shield of
13 Massachusetts determined that it was not in its
14 best interests to reduce the reimbursement to
15 physicians; correct?

16 MR. HARRINGTON: Objection. Go ahead.

17 A. I mean we normally follow industry
18 standards, and Medicare has moved to ASP. Right
19 now from our perspective, we don't see that as an
20 industry-acceptable standard just yet.

21 Q. Isn't it correct that you in fact have
22 followed Medicare's standard since 1995 and

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1 A. Yes.

2 Q. In your view, what is this case about?

3 A. It is about the overinflation of AWP
4 versus real costs.

5 Q. What do you understand the term
6 "overinflation" to mean?

7 A. That the -- there is fat, if you will,
8 in the AWP, AWP prices that are set by drug
9 companies.

10 Q. Do you understand to what extent there
11 is fat based upon plaintiffs' position in this
12 litigation?

13 A. No.

14 Q. Based upon your position as a member of
15 the provider reimbursement department, sitting
16 here today, do you have a view as to whether or
17 not you are misled as to the meaning of AWP?

18 A. I want to say my opinion is the AWP
19 would be the bottom-line wholesale cost that would
20 be -- providers could buy their drugs at.

21 Q. That is your view as a -- currently that
22 is your understanding of the -- well --

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1 term AWP, average wholesale price, meant the
2 average of actual wholesale prices paid? Was that
3 your understanding in 2000?

4 A. Yes. The fees at which we reimbursed
5 our providers.

6 Q. Okay. You added something that was
7 inconsistent with my question, so I will ask it
8 again.

9 Was it your understanding in 2000 that
10 the term AWP, average wholesale price, meant the
11 average of actual wholesale prices paid?

12 A. I guess paid to who? That is where I am
13 --

14 Q. I am asking what your understanding was.
15 Okay? Let's just start with that point.

16 In 2000, what was your understanding of
17 the term AWP, or average wholesale price?

18 A. It is the price that we would reimburse
19 our providers, and it was the price at which we
20 felt providers purchased their drugs at.

21 Q. Okay. So it is your understanding -- it
22 was your understanding in 2000 that it was the

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1 price at which providers purchased their drugs; is
2 that correct?

3 A. Yes.

4 Q. So, in other words, it is your position
5 that you understood that Blue Cross/Blue Shield of
6 Massachusetts was reimbursing providers at their
7 average cost?

8 A. Yes.

9 Q. Okay. Is it your understanding as a
10 member of Blue Cross/Blue Shield of Massachusetts
11 that the plaintiffs in this litigation have taken
12 the position that you just espoused as to the
13 meaning of AWP throughout the 1990s?

14 MR. HARRINGTON: Well, I am going to
15 object. Plaintiffs haven't taken any position as
16 to what his understanding was in 2000.

17 MR. HAAS: That is not my question.

18 BY MR. HAAS:

19 Q. I mean you have espoused an
20 understanding that you had in 2000 of the term
21 AWP. My question is whether or not it is your
22 understanding of the allegations in this case that

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1 Q. Have you had discussions with anyone at
2 Blue Cross/Blue Shield of Massachusetts concerning
3 the meaning of the term AWP?

4 A. No.

5 Q. So in 2003-2004, as a member of the
6 provider reimbursement group, you learned that AWP
7 was no longer, you know, from your perspective an
8 average of actual wholesale costs but indeed was
9 something greater than the costs that doctors paid
10 for drugs; right?

11 A. Yes.

12 Q. At that point did you run to anybody and
13 say, "We now have to reduce reimbursement, because
14 we aren't in fact reimbursing at actual cost"?

15 MR. HARRINGTON: What is the time frame
16 on that question?

17 MR. HAAS: What he just testified to,
18 2003-2004.

19 A. Well, we did that analysis, which was
20 part of, you know, looking at how our drug fees
21 were set.

22 Q. Right. And in connection with that

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EXHIBIT 3



From: Janine Suscewicz
Sent: Tuesday, January 30, 2001 11:36 AM
To: Steven L. Greco; Milton E. Goggans; Donald J. Soltyslak; Kristine Peterson; Samuel J. Moed;
Mark J. Ahn; Jeffrey Hatfield; Gary Zlezziula
Cc: Joel M. Lasker; Rosemary A. Crane; Rick E. Winningham; Richard Lane; Thomas P. McKenna
Subject: Message from Ed Penick



PricingPractices.doc; Janine.Suscewicz.vc

Kindly distribute this memorandum regarding the Company's pricing and promotional practices to all U.S. Medicines Sales and Marketing Personnel.

Please contact me if you have any questions.

Many thanks.



Executive Memorandum



Bristol-Myers Squibb Company
U.S. Medicines Group

To: U.S. Sales & Marketing Personnel

Date: January 26, 2001

From: E. Penick

cc: R. Crane, R. Lane, J. Lasker
T. McKenna, R. Winningham

Subject: Media Coverage -
Pharmaceutical Pricing Practices

As you may be aware, there has been increasing media coverage of pharmaceutical pricing practices. Beyond the usual charges that pharmaceutical companies charge too much for their products, the government has recently focused on the differential between the Average Wholesale Price ("AWP") of products and the products' actual selling price. The government refers to that differential as the "spread."

The government has long been aware of the existence of the spread. For years, a substantial amount of public information has detailed the size of the spread for many drugs. Nevertheless, it is important to recognize that the government's recent focus on the spread is part of the reason it gives when asserting that the government is overpaying for the drugs it reimburses.

In light of the recent attention being paid to the spread, it is appropriate to remind you that Bristol-Myers Squibb Company, in accordance with its Code of Conduct, promotes and sells its products "solely on the basis of price, quality and service." Although it is appropriate to respond to a customer's inquiry about a product's AWP and its cost, the spread should not be used as a promotional or marketing tool.

Please contact the U.S. Medicines Legal Department if you have any questions or concerns about this issue.

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BMS/AWP/000192876

EXHIBIT 4

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February 16, 2006

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MASSACHUSETTS
3 VOLUME II
4
5 - - -

6 IN RE: PHARMACEUTICAL : MDL NO. 1456
7 INDUSTRY AVERAGE WHOLESALE : MASTER FILE NO.
8 PRICE LITIGATION : 01CV12257-PBS
9 - - -

10
11
12 Continuation of the videotaped
13 deposition of ERIK SCHULTZ was taken, pursuant to
14 notice, at COURTYARD PHILADELPHIA AIRPORT, 8900
15 Bartram Avenue, Philadelphia, Pennsylvania on
16 Thursday, February 16, 2006, beginning at 9:25
17 a.m., before M. Kathleen Muino, Professional
18 Shorthand Reporter, Notary Public, and Michael
19 Mullin, Videographer, there being present:
20
21
22 - - -

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1 okay. I -- I'll -- if you got a -- you know, a
2 dog barking and running around you, you know, the
3 last thing you want to do is try and kick it.
4 It's already excited and angered, so they wanted
5 to lay low like not kicking the dog.

6 Q. Did -- did the investigation affect what
7 you did in any way?

8 A. Could you rephrase the question?

9 Q. Yeah. It -- did -- did it have any
10 impact on what you did in -- in the course of your
11 work at the company?

12 A. Not at the time.

13 Q. Did it at some time?

14 A. Yes.

15 Q. At what time?

16 A. In later years, when they wanted to --
17 they looked at changing the price. I was not
18 supportive of that.

19 Q. Could you be more specific? What -- what
20 do you mean they looked at changing the price?

21 A. Oh, I believe earlier you asked about the
22 spreads and what type of -- what it would mean if

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1 you changed certain price points, and that was a
2 constant request for -- to evaluate those
3 scenarios, and I, frankly, was not very
4 cooperative in those efforts because I didn't
5 think it was a wise choice.

6 Q. You didn't think it was a wise choice
7 vis-a-vis the OIG investigation?

8 A. Well, just in -- I didn't agree with the
9 principle in general, and certainly the OIG
10 investigation only inflamed that because it raised
11 the likelihood that unethical actions would be
12 discovered.

13 Q. When you say you didn't agree with the
14 principle in general, what principle are you
15 talking about?

16 A. In paying doctors more money -- trying to
17 pay doctors more money to prescribe more product.
18 Competing on finances. It make no sense from a
19 pricing strategy standpoint or an ethical one.

20 Q. Did you make your views known?

21 A. (Indicating.)

22 Q. Did you make your views known?

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1 A. Yes.

2 Q. To who?

3 A. Pretty much everybody who asked me to do
4 that type of work.

5 Q. Would that have included Mr. Freeberry?

6 A. He never asked me. But he knew my views.

7 Q. Who asked you to do that type of work
8 then?

9 A. The brand teams, senior leaderships.

10 Q. Did -- did your view prevail?

11 A. I don't know that it was because of me,
12 but yes.

13 Q. And what time frame are we talking about?

14 A. The entire time I was at AstraZeneca. I
15 don't believe they ever made a change to list
16 price. We did increase the terms to physicians at
17 one point, in maybe 2004, if I remember, perhaps
18 2003, and I think they may have changed discount
19 levels towards my departure in 2005, somewhere
20 there.

21 Q. Was the changing of discount levels and
22 increasing terms something that you objected to

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1 MS. LAWSON: Object --

2 THE WITNESS: There was --

3 MS. LAWSON: -- to form.

4 THE WITNESS: -- a way.

5 BY MR. WEXLER:

6 Q. Yes. Okay. Just to follow up on your
7 answer, what was that way?

8 A. That way was --

9 MS. LAWSON: To form.

10 THE WITNESS: -- to calculate what
11 the competitors' acquisition price and -- versus
12 their reimbursement, what that left for profit,
13 versus how it compared to ours, our products.

14 BY MR. WEXLER:

15 Q. Did you -- did you do those kinds of
16 analyses?

17 A. I -- as I told you earlier, I resisted
18 and was very uncooperative. I do know that they
19 were done extensively before my arrival because of
20 spreadsheets Kaylor Kowash turned over to me
21 showing all those calculations. When I was asked
22 to do them, I refused to use those sheets and did

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1 it my own way, did the analysis my own way, and
2 often then would -- would not redo the analysis
3 because I thought there was a bigger question,
4 like even if it shows we make more money, I'm not
5 going to sup -- support or recommend changing the
6 prices, so --

7 Q. When you say you did it your own way,
8 what do you mean?

9 A. I -- you know, you balance your checkbook
10 your way; I balance my checkbook my way --

11 Q. Well, how did you --

12 A. -- with my math.

13 Q. How -- how -- how did you do your -- how
14 did you balance your checkbook --

15 A. I made a --

16 Q. -- in this --

17 A. -- spreadsheet from scratch, I imagine,
18 or hand wrote it on a napkin. I don't really
19 recall which, but I didn't use their spreadsheets
20 to do the calculations, and this was greatly
21 upsetting to them.

22 Q. Was --

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1 A. But I --

2 Q. Were the calculations that you performed
3 intended, though, to actually monitor the
4 difference in return to practice that could be
5 realized through the purchase of Lupron as opposed
6 to the purchase of Zoladex and --

7 A. That's what --

8 Q. -- the price --

9 A. -- they had asked me to do, and when I
10 did that calculation, that -- that -- that was the
11 intent of it.

12 Q. Okay. When you did the calculation, did
13 you provide it to anybody?

14 A. I have no idea. Probably not.

15 Q. Did you do the calculation on your
16 computer?

17 A. You're asking me, you know, this is a
18 long time -- this was when we first merged. I --
19 I did it like one time then. They were looking
20 for any way to get prof -- more profitability to
21 the doctor. I identified potential scenarios and
22 stated I was not going to support that type of a

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1 move and, you know, we -- we -- we never made that
2 move.

3 Q. Did someone else get that task?

4 A. No. They kept asking me to do it over
5 and over and over and -- and -- but I eventually
6 just was uncooperative, say -- saying I'm -- you
7 know, it's not going to make a difference because
8 I'm not -- you know, I can identify ways, but so
9 what.

10 Q. Did --

11 A. There were some -- some defining events
12 where it was worth -- I felt it was worth making
13 some type of evaluation of how the pricing would
14 change the reimbursement environment and so forth;
15 Zoladex protected needles, siliconized needle,
16 felt those were worthy of a new price
17 recommendation, being a new product, and so I did
18 some analysis around there, I imagine. I don't
19 recall it specifically.

20 Q. So in other words, you felt that it -- it
21 could be justified to make the -- the change with
22 the advent of a -- of an -- either a change to the

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1 product or an addition to the product?

2 MS. LAWSON: Object to form.

3 BY MR. WEXLER:

4 Q. I'm not trying to put words in your...

5 I'm just trying to understand what you're saying.

6 In other words -- because I -- I -- I -- I've seen

7 some documents to this effect, and I'll show them

8 -- I will show them to you eventually when I --

9 hopefully we'll get to them.

10 But the -- you know, like with a new

11 needle, safety needle, that would have been a -- a

12 -- what you thought was an appropriate time, if

13 there was any, to make a change in price?

14 Am I ahead of myself here?

15 A. No, you're not ahead of yourself.

16 Frankly, I had an ethical problem with trying to

17 increase profitability to physician, which was the

18 key driver in this marketplace, and as a result of

19 that, I did -- was not cooperative. However, when

20 you were coming out with a new product, the

21 protected needle, the siliconized version, it

22 seems less sleazy --

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1 Q. I got you.

2 A. -- somehow because it's a new technology,
3 the cost of goods, however miniscule, was higher,
4 things of that nature, would evaluate a new
5 option. Maybe we deserved more money for that
6 product, and, therefore, let's do the analysis to
7 make sure we would not adversely affect, you know,
8 physician return to practice.

9 Q. Okay. Did you have any discussions with
10 Mr. Freeberry about your reluctance to do these
11 analyses?

12 A. I'm sure.

13 Q. Do you recall any in particular?

14 A. I -- I -- it's where you spent -- spent
15 all, you know, the last thousand dollars. It's --
16 it certainly happened, but I -- I -- I would talk
17 with John about many things, and he certainly
18 understood my reluctance, and I believe he agreed
19 with that.

20 Q. Okay.

21 A. Ethical, he was a very -- I thought he
22 was a very ethical person and -- and wouldn't have

EXHIBIT 5

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July 21, 2005

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THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL)NDL DOCKET NO.
INDUSTRY AVERAGE WHOLESALE)CIVIL ACTION
PRICE LITIGATION,)01CV12257-PBS

THIS DOCUMENT RELATES TO:)
ALL ACTIONS)

HIGHLY CONFIDENTIAL DEPOSITION
UPON ORAL EXAMINATION OF
MARK LEVONYAK

9:00 a.m.

July 21, 2005

HOLLAND & KNIGHT

2600 Pike Tower

520 Pike Street

Seattle, Washington 98101

REPORTED BY: Judith A. Robinson, CCR #2171

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1 subtle?

2 A. It really depended. I mean, I don't have a
3 specific way to tell you that.

4 Q. Give me some examples as to how they would convey
5 that -- that concern.

6 A. Without any specifics, at least the way I recall
7 it, you would talk about the efficacy and safety and
8 convenience of the product and they would genuinely feel,
9 yes. This was a very efficacious drug. It was very safe.
10 It was the most convenient. But economically, they didn't
11 feel as though they had the best cost in order to use your
12 product.

13 Q. Were some of them more direct than just using the
14 term, "cost," where they referred directly to reimbursement
15 or profit?

16 A. Yeah. At times they would talk about
17 reimbursement.

18 Q. How were the sales reps that worked for you told
19 to handle those types of situations?

20 MR. TORREGROSSA: Objection. No time period.

21 THE WITNESS: Yeah. What time period?

22 BY MR. LENETT:

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1 Q. While you were the oncology sales director.

2 A. It changed.

3 Q. Okay. Tell me -- tell me how it started out and
4 the way in which it changed.

5 A. Initially, when we first started and were learning
6 this business and trying to understand it, you could address
7 those issues. You could talk to them about it and talk to
8 them about the different ramifications of the costs and the
9 reimbursement scenario.

10 Then there was a change. And I can't remember
11 exactly but there was a change in policy that we couldn't
12 have that discussion at all, including not having any, you
13 know, documents about it. Then that got relaxed where we
14 could understand it very well but we were not allowed to
15 show anything to physicians.

16 Q. You could discuss it with them but not show it?

17 MR. TORREGROSSA: Objection to form.
18 Mischaracterizes.

19 THE WITNESS: You could discuss it if they
20 brought it up.

21 BY MR. LENETT:

22 Q. I see. Okay. Let's see if we can put some time

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1 things?

2 A. I'm sure I did one.

3 Q. How are you sure about that?

4 A. Because when a directive like that comes down I
5 want to reinforce it with my sales team.

6 Q. Do you remember reinforcing it with your sales
7 team?

8 A. I'm sure I did.

9 Q. Are you just assuming that you did or do you
10 remember that you did?

11 A. I'm pretty sure that I reinforced it.

12 Q. And in what way did you reinforce it, what did you
13 say to your sales team?

14 A. Exactly what was quoted in the -- the voice mail.
15 Which was, you know, we were to "cease and desist" with any
16 reimbursement discussions, any development of spreadsheets
17 for our own internal information.

18 Q. Did you refer to spreadsheets that had been used
19 prior to that?

20 A. I don't know if I referred specifically to that. I
21 just probably used it in general tense.

22 Q. For example, did you state to the sales team we

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1 have to stop using the spreadsheets we have been using?

2 MR. TORREGROSSA: Objection to --

3 BY MR. LENETT:

4 Q. Anything to that effect?

5 MR. TORREGROSSA: Objection to form.

6 THE WITNESS: I can't remember exactly but
7 that would have been my intent probably.

8 BY MR. LENETT:

9 Q. Okay. So there had been some spreadsheets you
10 were using then prior to that time?

11 MR. TORREGROSSA: Objection to form.

12 THE WITNESS: Yes.

13 BY MR. LENETT:

14 Q. And there -- there had been discussions with
15 customers on reimbursement issues?

16 MR. TORREGROSSA: Same objection. Go ahead.

17 BY MR. LENETT:

18 Q. Is that true?

19 A. Prior to the Email.

20 Q. Yes. And these discussions and spreadsheets, my
21 understanding is they would generally show the comparison
22 and spreads between reimbursement of Kytril and its

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1 competitors; is that correct?

2 MR. TORREGROSSA: Form objection, please.

3 THE WITNESS: It represented a whole bunch of
4 different things. You know, some was on the reimbursement
5 side. Some were on the cost saving side.

6 BY MR. LENETT:

7 Q. But among the things that they represented --
8 among the things that were represented in the spreadsheets
9 and among the things that were included in the discussions
10 with customers, was comparative information regarding the
11 spreads between Kytril and its competitors?

12 MR. TORREGROSSA: Objection. Form.
13 Compound. Confusing. Go ahead.

14 BY MR. LENETT:

15 Q. Is that true?

16 A. Yeah. One of the parts of it. Yes. I would
17 agree with that.

18 Q. What did you personally do after Mr. DeVinney's
19 voice mail message?

20 Did you take any specific actions?

21 A. I did what we just talked about.

22 Q. Right. You reinforced it with your sales team?

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1 THE VIDEOGRAPHER: The time is 3:51 p.m.

2 We're now back on the record.

3 BY MR. LENETT:

4 Q. Mr. Levonyak, have you had a chance to review
5 Exhibit Number 011?

6 A. Yes.

7 Q. Can you please identify this document?

8 A. These are -- these are paper copies of electronic
9 spreadsheets that are comparing Kytril and Zofran in a
10 reimbursement situation on the first spreadsheet and a cost
11 savings situation on the second. Cost savings on the third
12 and then again, cost savings on the last.

13 BY MR. LENETT: I'm going to make a formal
14 request on the record for production of this document in its
15 original electronic format.

16 MR. TORREGROSSA: Put it in an Email then.

17 THE WITNESS: Yeah. I don't know if we have
18 one.

19 BY MR. LENETT:

20 Q. Mr. Levonyak, did you send this spreadsheet, this
21 electronic spreadsheet, with a cover Email message to
22 certain people?

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1 A. Did I send this out? Yes. As I look at this
2 document, this is from me to my sales team.

3 Q. Okay. Was this circulated before or after
4 Mr. DeVinney's voice mail message?

5 A. This was circulated and that '97 time period --
6 period is somewhat nebulous. Once there was clarity around
7 what we could do and couldn't do.

8 Q. So this was circulated once there was that
9 clarity. Is that what you're saying?

10 A. Yes. Because I say here, it's now okay to use
11 this. Which means, I got clarity on the fact that no, we
12 can't -- the clarity here was that we could still use these
13 spreadsheets for us to understand this internally.

14 Q. Okay. And who did you get that clarity from?

15 A. That was the clarity that came out of those
16 subsequent meetings during that 3 or 4-month period.

17 Q. And the clarification would have come from
18 Mr. DeVinney?

19 A. I believe so. I can't give you specifics there.

20 Q. Okay. This -- your Email message states here:

21 "Hello Everyone. Attached is the Kytril
22 reimbursement spreadsheet that we have used in the past from

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1 David Newman."

2 So you had -- let me just stop right there. You
3 had used this type of a spreadsheet before in the past,
4 right?

5 A. For our general understanding and knowledge, yes.

6 Q. Well, in the past, weren't you able to provide
7 this to customers?

8 MR. TORREGROSSA: Objection, form.
9 Mischaracterizes.

10 THE WITNESS: In the past, prior to, you
11 know, any announcement from Bill DeVinney, we used this to
12 understand the business. Did we use it with customers? You
13 know, specifically, I can't say exactly. We certainly knew
14 the information.

15 BY MR. LENETT:

16 Q. Wasn't it possible that spreadsheet-type
17 information, such as in this exhibit, was provided to
18 customers before Mr. DeVinney's announcement?

19 MR. TORREGROSSA: Objection, form.

20 THE WITNESS: Could have been. I'm not with
21 my sales representatives all the time.

22 BY MR. LENETT:

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1 Q. Okay. But that was one of its purposes, to
2 provide it to customers, at least during the period of time
3 that you felt that you could do that?

4 MR. TORREGROSSA: Objection, form.
5 Confusing.

6 BY MR. LENETT:

7 Q. Isn't that right?

8 A. I would say, prior to any, you know, directive
9 from Bill DeVinney. These were primarily used to understand
10 the situation related to reimbursement and cost savings.

11 Using it with -- with customers occurred at times
12 but certainly not all the time.

13 Q. Okay. Your next sentence states:

14 "It is now okay to use this again with a new
15 multi-dose vial being approved."

16 And I think you just indicated where you say, it's
17 okay to use it again, that's because you had received
18 clarification that it was okay, right?

19 A. Yeah. Okay to use it again internally. I should
20 have said internally there. But okay to use it again so
21 that we could still understand the market dynamics.

22 Q. You could still convey this spreadsheet

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1 information to customers without showing them it, if you
2 were responding to something they brought up, right?

3 MR. TORREGROSSA: Objection, form.
4 Mischaracterizes.

5 THE WITNESS: Well, let me -- let me just
6 clarify what we shared. We could share with them the cost,
7 the AWP. They would have to do all of the reimbursement
8 calculations on their own which are pretty straightforward.
9 But we could say, this is what he sell for. Here's the AWP.
10 And you figure out the -- the rest of it. We knew it, as
11 you would know any product. The inside and out of your
12 product versus your competition.

13 BY MR. LENETT:

14 Q. But to the extent they were making any
15 representations about what the relative spreads were between
16 Kytril and one of the competing products, you could set them
17 straight on what the true state of affairs was by referring
18 to that type of information, right?

19 MR. TORREGROSSA: Objection.
20 Mischaracterizes.

21 THE WITNESS: I don't know if I would state
22 it that way. What we were able to share with the customer

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EXHIBIT 6

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September 1, 2005

1

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

MDL DOCKET NO. CIVIL ACTION 01CV12257-PBS

-----X
In re: PHARMACEUTICAL INDUSTRY AVERAGE
WHOLESALE PRICE LITIGATION
-----X

THIS DOCUMENT RELATES TO:

ALL ACTIONS
-----X

September 1, 2005

9:00 a.m.

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Videotaped deposition of LAURA GLASSCO,
pursuant to Notice, held at the offices of Patterson,
Belknap, Webb & Tyler LLP, 1133 Avenue of the
Americas, New York, New York, before Jineen Pavesi, a
Registered Professional Reporter, Registered Merit
Reporter, Certified Realtime Reporter and Notary
Public of the State of New York.

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<p style="text-align: right;">26</p> <p>1 manager, Bruce Henderson was John Hogan's manager or</p> <p>2 regional business director, Mike Ziskin was the</p> <p>3 director of healthcare and reimbursement I think was</p> <p>4 his title, Brian Fitzpatrick was in marketing, I</p> <p>5 believe, for Centocor, and Ken Wegner himself.</p> <p>6 Q. At the time is this pretty much all the</p> <p>7 national account managers there were?</p> <p>8 A. I believe there were four, yes, plus</p> <p>9 myself.</p> <p>10 Q. Attached to the cover memo or cover</p> <p>11 e-mails of Exhibit Glassco 001, at the bottom it says</p> <p>12 a file called California PMP.PPT, and there appears</p> <p>13 to be some type of PowerPoint behind that.</p> <p>14 Have you seen that before, the</p> <p>15 PowerPoint that's attached to Exhibit Glassco 001?</p> <p>16 A. Yes.</p> <p>17 Q. Did you create it or help create it?</p> <p>18 A. Yes.</p> <p>19 Q. What is it?</p> <p>20 A. It is exactly what I gave you in</p> <p>21 Exhibit Glassco 002.</p> <p>22 Q. The text would be the same?</p>	<p style="text-align: right;">28</p> <p>1 Q. How many in a typical group?</p> <p>2 MR. HAAS: Objection.</p> <p>3 A. I don't know.</p> <p>4 Q. More than ten, less than a hundred?</p> <p>5 MR. HAAS: Objection to form.</p> <p>6 A. Probably somewhere between five and</p> <p>7 ten.</p> <p>8 Q. In addition to the -- it would be the</p> <p>9 physician or it could be people from his office staff,</p> <p>10 as well, right?</p> <p>11 MR. HAAS: Objection to form.</p> <p>12 A. Correct.</p> <p>13 Q. Where specifically would these PMP</p> <p>14 presentations take place?</p> <p>15 A. I recall one that I went to was a</p> <p>16 restaurant in the Seattle area.</p> <p>17 Q. How many PMP presentations did you do?</p> <p>18 A. I don't know.</p> <p>19 Q. More than a dozen?</p> <p>20 A. No.</p> <p>21 Q. By the way, you didn't give the entire</p> <p>22 PMP presentation, right?</p>
<p style="text-align: right;">27</p> <p>1 A. Yes, I believe it is.</p> <p>2 I haven't compared it page-for-page,</p> <p>3 but it looks very similar.</p> <p>4 Q. Would Mr. Wegner also be giving PMP</p> <p>5 presentations then?</p> <p>6 A. Yes.</p> <p>7 Q. Let me ask you about the PMPs.</p> <p>8 You said -- first of all, were any of</p> <p>9 them ever done in the physician's office to his staff?</p> <p>10 A. I don't recall.</p> <p>11 Q. That means you don't recall doing any,</p> <p>12 right?</p> <p>13 MR. HAAS: Objection to form.</p> <p>14 Q. You don't recall doing any in a</p> <p>15 physician's office?</p> <p>16 MR. HAAS: Objection to form.</p> <p>17 A. I never did one in a physician's</p> <p>18 office; I don't know if there were others done in a</p> <p>19 physician's office.</p> <p>20 Q. Typically you would do it with a group</p> <p>21 of physicians that you brought together?</p> <p>22 A. Yes.</p>	<p style="text-align: right;">29</p> <p>1 A. No, I did not.</p> <p>2 Q. The whole presentation was a</p> <p>3 day-and-a-half typically, is that what you said?</p> <p>4 MR. HAAS: Objection, asked and</p> <p>5 answered.</p> <p>6 Q. I can see you nod your head, the court</p> <p>7 reporter can't take anything down, you have to say yes</p> <p>8 or no.</p> <p>9 A. Yes.</p> <p>10 Q. How would it be decided what doctors</p> <p>11 were invited to these PMP presentations?</p> <p>12 A. It would be decided based on the market</p> <p>13 and what the field felt was important.</p> <p>14 Q. Does that mean that the reps could</p> <p>15 invite whoever they felt it was important to invite?</p> <p>16 A. Yes.</p> <p>17 Q. If this was a day-and-a-half, would you</p> <p>18 provide hotel rooms for the doctors or staff as part</p> <p>19 of this?</p> <p>20 MR. HAAS: Objection to form.</p> <p>21 A. I don't know, I didn't get involved in</p> <p>22 logistics.</p>

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<p style="text-align: right;">30</p> <p>1 Q. Did you understand the doctors were 2 paying their own hotel rooms and transportation to get 3 there? 4 MR. HAAS: Objection to form, asked and 5 answered. 6 A. Many times they would have a local 7 location so there weren't any overnights required. 8 Q. Would you provide the meals to the 9 doctors? 10 A. Yes. 11 Q. Did you or anyone you know keep track 12 of what doctors went to PMPs or when? 13 MR. HAAS: Objection to form. 14 Q. Was there a list of doctors who went to 15 PMPs? 16 A. I would imagine someone kept track of 17 who attended, but it wasn't me, so I don't have that 18 information. 19 Q. Do you know where it would be? 20 A. No. 21 MR. HAAS: Objection. 22 Q. Did you have a certain budget for PMPs</p>	<p style="text-align: right;">32</p> <p>1 A. Yes. 2 Q. Do you know if Dr. Kassan ultimately 3 did start infusing patients in his office? 4 A. I believe so, I am not sure. 5 Q. I want to talk to you about the 6 PowerPoint that's attached here. 7 You and Mr. Wegner wrote this together 8 or did you write it or did he write it? 9 A. We worked on it together, yes. 10 Q. The one that we got from your computer, 11 Exhibit Glassco 002, that's something you wrote primarily 12 yourself? 13 MR. HAAS: Objection to form. 14 Q. Who wrote the PowerPoint that's marked 15 as Exhibit Glassco 002? 16 A. I worked on it with Ken. 17 Q. By the way, Mr. Wegner's e-mail is 18 dated November 2000, but if we look at the PowerPoint 19 that's attached to it, it has a date of December 18, 20 2003. 21 Do you see that in the lower left 22 corner?</p>
<p style="text-align: right;">31</p> <p>1 or amount of money you could spend on them? 2 A. No. 3 Q. Did you ever invite people to come to 4 PMPs? 5 A. No. 6 Q. By the way, the PMPs that we're talking 7 about now are for physicians, right, the physicians 8 and their staffs? 9 A. Yes. 10 Q. Was there ever a similar program or any 11 kind of program put together by Centocor for health 12 plans or MCOs? 13 A. No. 14 Q. Did you ever have any — strike that. 15 Why were you forwarding Mr. Wegner's 16 e-mail to everybody on your list here? 17 A. I felt it was important for people to 18 see what the interaction was of corporate accounts 19 with physicians and what the physicians' response was. 20 Q. And this was a good example of that, 21 right? 22 MR. HAAS: Objection to form.</p>	<p style="text-align: right;">33</p> <p>1 A. I do. 2 Q. Do you know why that is? 3 A. No, I don't. 4 Q. Were you still giving PMP presentations 5 in December of '03? 6 A. No, I don't believe so. 7 Q. Is this PowerPoint something you would 8 give the doctors as part of the PMP presentation? 9 A. Are you asking if I would hand this out 10 and hand it to them? 11 Q. Yes. 12 A. No. 13 Q. For example, I'm looking at what you 14 would call the payer grid, Bates No. 290, California 15 payers, do you see that? 16 A. Yes, I do. 17 Q. With provider numbers and reimbursement 18 amounts. 19 You would have some other piece of 20 paper you would give physicians that would have this 21 same information? 22 A. No.</p>

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<p style="text-align: right;">102</p> <p>1 described.</p> <p>2 MR. HAAS: Take it under advisement and</p> <p>3 I ask you to put it in writing.</p> <p>4 MR. MACORETTA: I will show you what</p> <p>5 we're going to mark as Exhibit Glassco 007.</p> <p>6 (Exhibit Glassco 007, Bates Nos.</p> <p>7 MDL-CEN 88912-32, was marked for identification, as of</p> <p>8 this date.)</p> <p>9 Q. Let me know when you have had a chance</p> <p>10 to look at that.</p> <p>11 A. All right.</p> <p>12 (Witness perusing document.)</p> <p>13 Q. Have you ever seen this before?</p> <p>14 A. I don't recall seeing it, no.</p> <p>15 Q. The first page sets out the heading</p> <p>16 "Practice Management Weekends."</p> <p>17 At least some of these practice</p> <p>18 management presentations that you went to were weekend</p> <p>19 presentations?</p> <p>20 A. Yes, there were a few.</p> <p>21 Q. Was there a distinction between</p> <p>22 practice management programs and practice management</p>	<p style="text-align: right;">104</p> <p>1 Q. Who would be the person calling you in</p> <p>2 for that?</p> <p>3 MR. HAAS: Objection to form, you can</p> <p>4 answer.</p> <p>5 A. As I recall, again, memory has to go</p> <p>6 back here in time, back to 2001, it might have been</p> <p>7 somebody from the marketing department.</p> <p>8 But also, as I mentioned earlier, it</p> <p>9 might have been area business specialist or regional</p> <p>10 business manager that felt it was important to have a</p> <p>11 corporate accounts person attend.</p> <p>12 Q. Whoever called you in would say this is</p> <p>13 what I want you to talk about?</p> <p>14 A. Yes, they would have asked me to talk</p> <p>15 about the payers in the community.</p> <p>16 Q. Bates No. 920, "overview of the PMP</p> <p>17 economic model," do you know what the PMP economic</p> <p>18 model is?</p> <p>19 MR. HAAS: Object to the form.</p> <p>20 (Witness perusing document.)</p> <p>21 MR. HAAS: Foundation.</p> <p>22 A. No.</p>
<p style="text-align: right;">103</p> <p>1 weekends?</p> <p>2 A. Not that I am aware of.</p> <p>3 Q. On the first page there is something</p> <p>4 called strategic imperatives and objectives.</p> <p>5 Did you ever have any discussions with</p> <p>6 anybody at Centocor about what the strategic</p> <p>7 imperatives and objectives were of the practice</p> <p>8 management program?</p> <p>9 A. No.</p> <p>10 Q. Did you ever have any understanding</p> <p>11 about what they were?</p> <p>12 MR. HAAS: Objection to form.</p> <p>13 A. I can only speak to why I was called in</p> <p>14 to do a presentation.</p> <p>15 Q. What was your understanding of why you</p> <p>16 were called in?</p> <p>17 A. As I mentioned earlier, when I went to</p> <p>18 do a practice management program, it was to discuss</p> <p>19 what was going on with the payers in their community</p> <p>20 and what were some of the payer landscape issues that</p> <p>21 had come up, such as specialty pharmacy providers,</p> <p>22 et cetera.</p>	<p style="text-align: right;">105</p> <p>1 Q. Have you ever heard of something called</p> <p>2 the PMP economic model?</p> <p>3 A. No, I have not.</p> <p>4 Q. I want to go back to Exhibit Glassco 001</p> <p>5 and talk about your presentations at PMPs for a second.</p> <p>6 Typically this PMP would be in some</p> <p>7 kind of conference room or ballroom type setting?</p> <p>8 A. Yes.</p> <p>9 Q. You would be up on a stage?</p> <p>10 A. Yes.</p> <p>11 Q. The PowerPoint similar to what we have</p> <p>12 in Exhibit Glassco 001 would be projected?</p> <p>13 A. Yes.</p> <p>14 Q. I am not interested in the discussion</p> <p>15 of the specific state payers.</p> <p>16 Starting on page 298, when you talk</p> <p>17 about average Medicare reimbursements, could you tell</p> <p>18 me what exactly you would say to the physicians in</p> <p>19 connection with these slides?</p> <p>20 MR. HAAS: Objection to form.</p> <p>21 Q. You can answer.</p> <p>22 A. Basically I would share with the</p>

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<p style="text-align: right;">110</p> <p>1 is?</p> <p>2 Q. Generally, but I am not the only</p> <p>3 audience for this transcript, so I ask you to explain.</p> <p>4 A. A CPT code is a therapy versus a drug,</p> <p>5 so CPT code stands for something that's being provided</p> <p>6 by a healthcare professional.</p> <p>7 In this case these are different codes</p> <p>8 that a physician might be able to bill, might be able</p> <p>9 to bill, I should repeat that, for office visits or</p> <p>10 other types of reasons.</p> <p>11 So 99211 through 99215 are different</p> <p>12 what they call E&M codes, evaluation and management</p> <p>13 services, that could be billed if they were considered</p> <p>14 separate and identifiable from Remicade.</p> <p>15 Q. So if the patient just comes in and</p> <p>16 gets an infusion and that's it, probably the physician</p> <p>17 can't bill for any of the CPT codes?</p> <p>18 A. That's my understanding.</p> <p>19 Q. But if the doctor does something else,</p> <p>20 some kind of evaluation or management, he may be able</p> <p>21 to bill using one of these CPT codes?</p> <p>22 A. That's my understanding, yes.</p>	<p style="text-align: right;">112</p> <p>1 A. Sure.</p> <p>2 Basically this is a grid that shows if</p> <p>3 AWP is at that amount shown here and if the</p> <p>4 reimbursement from any given payer, public or</p> <p>5 otherwise, private, is a reduction off of AWP, what</p> <p>6 the physician would be reimbursed per vial and what</p> <p>7 the difference between AWP and that reimbursement</p> <p>8 would be based on an assumed purchase of \$500.</p> <p>9 For the next line, it discusses, as we</p> <p>10 spoke earlier, about the average of three vials per</p> <p>11 patient, so it basically multiplies what one vial is</p> <p>12 times three vials.</p> <p>13 And the last line then takes a patient</p> <p>14 to a year, first it talks about per vial, then it</p> <p>15 talks per infusion, and then it talks about per year,</p> <p>16 based on the different reimbursements that we knew</p> <p>17 available out there with the public payers and private</p> <p>18 payers.</p> <p>19 Q. Let me ask you a little differently</p> <p>20 then.</p> <p>21 Could you give me an example, you just</p> <p>22 told me what the slides say --</p>
<p style="text-align: right;">111</p> <p>1 Q. And the point of that is you can bill,</p> <p>2 meaning get more money from Medicare for whatever the</p> <p>3 services are, right?</p> <p>4 A. Correct.</p> <p>5 I wasn't advising him, I was just</p> <p>6 giving him as much information as possible.</p> <p>7 Q. Telling him those codes are out there,</p> <p>8 right?</p> <p>9 A. Yes.</p> <p>10 Q. The next slide after your Medicare</p> <p>11 example is summary and that's what, a summary of</p> <p>12 everything that went before?</p> <p>13 (Witness perusing document.)</p> <p>14 Q. Is it a summary of just the Medicare</p> <p>15 example?</p> <p>16 A. I think I just am summarizing the whole</p> <p>17 presentation of the large health plans in their area;</p> <p>18 if you look through the slide, it is basically</p> <p>19 summarizing the previous.</p> <p>20 Q. Then the slide after that titled</p> <p>21 "Reimbursement for Remicade," can you tell me how you</p> <p>22 would talk about that slide?</p>	<p style="text-align: right;">113</p> <p>1 A. That's what I would have said.</p> <p>2 Q. Just like what you told me?</p> <p>3</p> <p>4 A. Very similar, yes, spelling out for</p> <p>5 them exactly what I just said.</p> <p>6 It is what it is.</p> <p>7 Q. What you are calling here on the last</p> <p>8 slide profit per patient or profit on three-vial</p> <p>9 infusion, is that concept of profit something that you</p> <p>10 would discuss with the health plans?</p> <p>11 MR. HAAS: Objection.</p> <p>12 A. I wouldn't think the health plan would</p> <p>13 be concerned about that, no, I would not.</p> <p>14 Q. It is not something?</p> <p>15 A. No, it is not something I would discuss</p> <p>16 with them.</p> <p>17 Q. Was there a time at Centocor when</p> <p>18 instructions were given that you couldn't talk about</p> <p>19 profit anymore, are you aware of any policy at</p> <p>20 Centocor that said don't talk about profit anymore?</p> <p>21 MR. HAAS: Objection to form.</p> <p>22 A. To physicians about profit?</p>

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Laura Glassco

HIGHLY CONFIDENTIAL
New York, New York

September 1, 2005

<p style="text-align: right;">114</p> <p>1 Q. Yes.</p> <p>2 A. I think it was pretty much understood</p> <p>3 that we shouldn't discuss profits probably a couple of</p> <p>4 years ago, yes, I think it was a policy, but I don't</p> <p>5 have it written down.</p> <p>6 Q. How would you have learned of that</p> <p>7 policy, would someone have sent you a writing saying</p> <p>8 this is the new policy?</p> <p>9 MR. HAAS: Objection, form.</p> <p>10 A. I am not sure if it was in writing or</p> <p>11 not.</p> <p>12 I think it was well understood through</p> <p>13 verbal communication, as well.</p> <p>14 Q. At that time somebody said don't talk</p> <p>15 about profit?</p> <p>16 A. Right.</p> <p>17 Q. Who would that have been, do you know?</p> <p>18 A. I don't recall, I don't specifically</p> <p>19 recall.</p> <p>20 Q. Do you remember when that was?</p> <p>21 A. No, I don't.</p> <p>22 Q. Do you remember why that policy came</p>	<p style="text-align: right;">116</p> <p>1 A. And some training?</p> <p>2 Q. At some training for representatives or</p> <p>3 somebody else, is that true?</p> <p>4 A. Yes, yes.</p> <p>5 Q. And that was the extent of your</p> <p>6 involvement in training anybody regarding practice</p> <p>7 management or reimbursement?</p> <p>8 A. Correct.</p> <p>9 MR. MACORETTA: Why don't you give me a</p> <p>10 minute here.</p> <p>11 THE VIDEO TECHNICIAN: Time is 11:29</p> <p>12 a.m., going off the record.</p> <p>13 (Recess taken).</p> <p>14 THE VIDEO TECHNICIAN: Time is 11:34</p> <p>15 a.m. and we're back on the record.</p> <p>16 BY MR. MACORETTA:</p> <p>17 Q. I wanted to talk to you for a minute</p> <p>18 about the documents you produced to us today.</p> <p>19 Let me show you first what we can mark</p> <p>20 as Exhibit Glassco 008, which is a two-page document</p> <p>21 that says "Practice Management Worksheet For Assessing</p> <p>22 New Services," Bates No. CEN 00107382-383.</p>
<p style="text-align: right;">115</p> <p>1 into being?</p> <p>2 A. No, I don't.</p> <p>3 Q. If you wanted to review whatever the</p> <p>4 policy is to figure out exactly what it said, is there</p> <p>5 a place you could go look for that at Centocor?</p> <p>6 MR. HAAS: Objection, form.</p> <p>7 A. No.</p> <p>8 Q. Is there some central library of all</p> <p>9 the policies out there?</p> <p>10 A. No.</p> <p>11 MR. HAAS: Objection to form.</p> <p>12 Q. Were you ever involved in training</p> <p>13 anybody else regarding the practice management</p> <p>14 program?</p> <p>15 A. I am not sure of the question.</p> <p>16 Q. I think I asked you some of this</p> <p>17 earlier.</p> <p>18 You were never involved in creating any</p> <p>19 training materials for anybody?</p> <p>20 A. No, I was not.</p> <p>21 Q. And you may have occasionally given a</p> <p>22 talk or a presentation in some training, right?</p>	<p style="text-align: right;">117</p> <p>1 (Exhibit Glassco 008, Bates No. CEN</p> <p>2 00107382-383, was marked for identification, as of</p> <p>3 this date.)</p> <p>4 Q. Do you have a copy of that?</p> <p>5 (Witness perusing document.)</p> <p>6 Q. What is this, Ms. Glassco?</p> <p>7 A. When I was asked to appear, I was asked</p> <p>8 to look at my computer on certain subjects and I found</p> <p>9 this in my computer.</p> <p>10 It is not a document that I used per</p> <p>11 se, but I think it was a document that was used during</p> <p>12 the practice management programs.</p> <p>13 Q. So it is --</p> <p>14 A. It is a worksheet.</p> <p>15 Q. It is a Centocor-created document?</p> <p>16 A. Correct.</p> <p>17 Q. Is this a computer worksheet, meaning</p> <p>18 does it work that when you fill in certain columns,</p> <p>19 the numbers in other columns change?</p> <p>20 A. I don't know.</p> <p>21 What you see is what I had.</p> <p>22 Q. That number at the bottom right of the</p>

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EXHIBIT 7

Jan L. Cook, M.D.

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March 6, 2006

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MDL No. 1456

C.A. No. 01-CV-12257-PBS

* * * * *

IN RE: PHARMACEUTICAL INDUSTRY *

AVERAGE WHOLESALE PRICE LITIGATION *

*

THIS DOCUMENT RELATES TO ALL ACTIONS *

* * * * *

VOLUME I

DEPOSITION OF JAN L. COOK, M.D., a witness called on
behalf of Johnson & Johnson, pursuant to the Federal
Rules of Civil Procedure, before Jessica L.
Williamson, Registered Merit Reporter, Certified
Realtime Reporter and Notary Public in and for the
Commonwealth of Massachusetts, at the Offices of
Robins, Kaplan, Miller & Ciresi L.L.P., 800 Boylston
Street, Boston, Massachusetts, on Wednesday, March 6,
2006, commencing at 9:37 a.m.

*

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Jan L. Cook, M.D.

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Boston, MA

March 6, 2006

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1 number.

2 Q. Now, when you say you thought it was an
3 average wholesale price, what do you mean by that?

4 A. I mean, I thought it was a number --
5 just -- I thought it was a number, a number.

6 Q. Well, it is a number, isn't it?

7 A. I think so.

8 Q. You're aware that the average wholesale
9 price is a number that's publicly published and
10 available in price reporting services?

11 A. Yes. It's got to be a number that's
12 available, because people use that for payment.

13 Q. Okay.

14 A. So there is a number that is available
15 for a drug. It's called the AWP, and there's a
16 number.

17 Q. Right. That's listed as the AWP?

18 A. Yes.

19 Q. So it certainly is a number?

20 A. Yes.

21 Q. My question is, what did you think that
22 number was supposed to represent, if anything?

Jan L. Cook, M.D.

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Boston, MA

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1 A. What it said it was supposed to --

2 MR. COCO: Objection.

3 Q. So you thought the AWP is supposed to be
4 an actual average of wholesale prices; is that
5 correct?

6 A. Well, I actually didn't think about it a
7 whole lot. I thought it was a number -- yeah, I
8 guess I thought it was the wholesale price, the
9 average wholesale price.

10 Q. So you understand it to be an actual
11 average of the prices at which entities in the
12 market could purchase drugs from wholesalers?

13 MR. COCO: Objection.

14 A. I didn't give it that much thought. I
15 think I thought it was just -- you know, if you
16 say that, I guess -- well, I just didn't give it
17 that much thought. I thought it was a number. In
18 my world it's a number that people pay a
19 percentage of.

20 Q. Now, when you say it's a number that
21 people pay a percentage of --

22 A. Yes.

EXHIBIT 8

John J. O'Brien, Jr.

CONFIDENTIAL
Boston, MA

April 5, 2006

1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL) NO. 01CV12257-PBS
INDUSTRY AVERAGE WHOLESALE)
PRICE LITIGATION)

THIS DOCUMENT RELATES TO:)
ALL ACTIONS)

C O N F I D E N T I A L

VIDEOTAPED DEPOSITION of JOHN J. O'BRIEN, JR., called
as a witness by and on behalf of the Defendant,
AstraZeneca Pharmaceuticals, pursuant to the
applicable provisions of the Federal Rules of Civil
Procedure, before P. Jodi Ohnemus, Notary Public,
Certified Shorthand Reporter, Certified Realtime
Reporter, and Registered Merit Reporter, within and
for the Commonwealth of Massachusetts, at the offices
of Robins, Kaplan, Miller & Ciresi, L.L.P., 800
Boylston Street, Boston, Massachusetts, on Wednesday,
5 April, 2006, commencing at 10:49 a.m.

Henderson Legal Services
(202) 220-4158

John J. O'Brien, Jr.

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Boston, MA

April 5, 2006

11 (Pages 38 to 41)

<p style="text-align: right;">38</p> <p>1 Q. Can you recall what was discussed during 2 the last MSCO meeting? 3 A. (Witness nods.) No. 4 Q. What's typically -- 5 A. Excuse me. Shouldn't be shaking my head. 6 Speak up. 7 MR. COCO: We warned him. 8 Q. What is typically discussed during these 9 MSCO meetings? 10 A. I -- I don't recall. I -- you know, I'm 11 in attendance, but I'm not the lead on that 12 discussion. 13 Q. Who would be the lead on that discussion? 14 A. Normally, Jan Cook, regional medical 15 director. 16 Q. So, is your role -- what is your role 17 during the meetings? 18 A. My role is basically to be -- to represent 19 and be in attendance in terms of being -- 20 representing Blue Cross -- Provider Relations. 21 Q. Have members of MSCO or any of the other 22 provider groups whose meetings you've attended, have</p>	<p style="text-align: right;">40</p> <p>1 A. My understanding on that term is that it 2 is the average wholesale price of a drug. 3 Q. And do you know -- does that have any 4 meaning for you? Do you -- 5 A. It means the average price of a drug. 6 Q. And in what context have you heard that 7 term? 8 A. I -- I can't recall, but I -- you mean 9 what context? 10 Q. Do you remember when you first heard the 11 term? 12 A. No, no. I've been in -- you know, I've 13 been in the field -- I've been in this particular 14 job for over 20 years, so -- 15 Q. Was it when you first started, or was it a 16 little bit later in your inquiry? 17 A. I can't recall. 18 Q. Were you involved with the HMO staff model 19 for Blue Cross Blue Shield? 20 A. Which one? 21 Q. Well, either/or, any -- 22 A. Yes.</p>
<p style="text-align: right;">39</p> <p>1 they expressed any reimbursement-related concerns to 2 you? 3 A. No. 4 Q. Are you aware of any benchmarks for 5 reimbursement that are used by Blue Cross Blue 6 Shield? 7 MR. COCO: Objection. 8 A. I don't understand the question. 9 Q. For instance, for physician-administered 10 drugs, do you know how Blue Cross Blue Shield 11 reimburses providers? 12 A. Not really, no. 13 Q. Okay. 14 A. Oh. Excuse me. As I indicated 15 previously, we have a fee schedule. We reimburse 16 based upon the fee schedule. 17 Q. Okay. And have you ever heard the term 18 "AWP" in your role as physician -- in your roles in 19 which you deal with physicians? 20 A. Yes. 21 Q. And what's your understanding of that 22 term?</p>	<p style="text-align: right;">41</p> <p>1 Q. Could you name them? 2 A. Yes. I -- years ago it was known as 3 Medical West, currently known as River Bend Medical 4 Group, and when I was in marketing, we, as part of 5 our portfolio, you know, so, essentially, as part -- 6 part of my role in marketing was to -- you know, was 7 to sell Medical West coverage or offer Medical West 8 coverage, as well as offer other lines of -- other 9 plans within our portfolio to employer groups. 10 Q. Just to clarify, Medical West is now River 11 Bend? 12 A. Yes. 13 Q. It's the same organization? 14 A. Yeah. 15 Q. Was there anything that changed when the 16 name changed? 17 A. Ownership. 18 Q. And how did ownership change? 19 A. Well, from -- my understanding is it went 20 from a holding company to physician ownership. 21 Q. And which physicians are part of the 22 physician ownership now?</p>

EXHIBIT 9

Deborah Devaux

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March 9, 2006

Page 1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

NO. 01CV12257-PBS

In re: PHARMACEUTICAL)
INDUSTRY AVERAGE WHOLESALE) HIGHLY
PRICE LITIGATION) CONFIDENTIAL
_____))
THIS DOCUMENT RELATES TO:)
ALL ACTIONS)

DEPOSITION of DEBORAH DEVAUX, called as a
witness by and on behalf of Johnson & Johnson,
pursuant to the applicable provisions of the Federal
Rules of Civil Procedure, before P. Jodi Ohnemus,
Notary Public, Certified Shorthand Reporter,
Certified Realtime Reporter, and Registered Merit
Reporter, within and for the Commonwealth of
Massachusetts, at the offices of Robins, Kaplan,
Miller & Ciresi, L.L.P., 800 Boylston Street,
Boston, Massachusetts, on Thursday, 9 March, 2006,
commencing at 9:35 a.m.

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Deborah Devaux

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March 9, 2006

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1 rate which can be applied to the AWP to provide a
2 reasonably-consistent estimate of the physician's
3 acquisition cost, we do not feel that AWP provides
4 a useful measure of the acquisition cost of a drug
5 to physicians."

6 Now, is it your testimony that BCBS of
7 Massachusetts has assumed that there is some
8 relationship between AWP and acquisition costs for
9 drugs?

10 MR. COCO: Objection.

11 A. I don't know what Blue Cross Blue Shield
12 Massachusetts assumes.

13 Q. Okay.

14 A. I personally would have thought that there
15 would be some relationship between any pricing
16 methodology and the underlying cost, as a -- as Deb
17 Devaux.

18 Q. Okay. Now, I believe you mentioned that
19 you're not aware of WAC, is that correct?

20 A. I am not familiar with WAC.

21 Q. Okay. I'll represent to you that in the
22 price reporting services, WAC is another benchmark